Testimony of

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On behalf of the

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On

Mold: A Growing Problem

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Chairwomen Roukema and Kelly, Ranking Members Frank and Gutierrez and members of the Housing and Community Opportunity and Oversight and Investigations Subcommittees, my name is Jerry Howard and I am the Executive Vice President and Chief Executive Officer of the National Association of Home Builders (NAHB). I am pleased to have the opportunity to appear before you today to provide NAHB's perspective on the recent activity related to indoor mold and to share with you our response to the issue.

NAHB represents more than 205,000 member firms involved in home building, remodeling, multifamily construction, property management, housing finance, building product manufacturing and other aspects of residential and light commercial construction. Our membership is concerned about the potential impacts to the industry from the recent increase in indoor mold litigation and media attention, which has prompted our association to become actively engaged in the mold debate. Our members are determined to play a constructive role in resolving this issue.

Background

The mold issue raises a number of legitimate questions that merit serious discussion and require further investigation. Unfortunately, many of the legitimate issues have become obscured by litigation and misleading information.

Mold in indoor settings is not a new issue. Mold is a ubiquitous substance that predated our arrival on the planet and will likely survive us as well. It is in the air we breathe, on the surfaces we touch and in the food we eat. Mold growth in an indoor environment very likely has been around since humans inhabited dwellings. In fact, the clean up of mold is addressed in the Book of Leviticus in the Old Testament of the Bible.

What is new is the attention being paid to what is essentially a moisture-control issue. According to the U.S. Environmental Protection Agency (EPA), it is impossible to rid indoor environments of all molds and mold spores. EPA's " A Brief Guide to Mold, Moisture, and Your Home" states that indoor mold growth can and should be prevented or controlled by managing moisture indoors. Unfortunately, this solution to mold growth is often overlooked.

Science shows that three factors must be present for mold to grow: excessive moisture; a temperature between forty degrees Fahrenheit and one hundred degrees Fahrenheit; and an organic food source. The only factor that can be controlled is moisture. Significant mold growth in indoor environments, in both new and older homes, typically is the result of catastrophic water intrusion from floods – like those recently experienced in San Antonio - or long term exposure to water. But in many cases, water intrusions are relatively minor and, if addressed quickly, can easily halt the growth of mold.

Mold is not solely a housing issue. Recent mold claims have also involved schools, government buildings, and commercial buildings, which is logical given that the

conditions for mold growth are present in all indoor environments, not exclusively homes. Occurrences of mold in schools are making headlines nationwide. Students, parents, and staff members are suing school districts for alleged injuries caused by molds. There have been multimillion-dollar payouts because of the presence of mold in courthouses and other municipal buildings. All indoor environments must be considered if we are to comprehensively address this issue.

Claims that construction materials and building techniques used in new home construction contribute to indoor mold growth have moved the home building industry to the center of the mold debate. Unfortunately, the claims offer only suppositions about the causes of indoor mold growth. There is no evidence that building designs and construction practices are responsible for the increase in mold claims. Moreover, there is no evidence that mold is more prevalent in newer homes than in older homes.

One common theory is that homes today are built "tighter" than in the past in an effort to make them more energy efficient and, as a result, homes do not dry out as quickly as they did in the past, therefore leading to mold growth. If this theory were true, all new homes would be overrun with significant mold growth. However, this is not the case. While it is possible that in certain instances a home may be too tight and this may be a contributing factor in the growth of mold, it is impossible to make that case for the entire housing stock.

A house is a system of complimentary materials that is intended to keep out any inclement weather, keep in any cooled or heated air, and provide the space necessary to live. Individual components may fail, combinations of components may not work together, or components may be installed improperly compromising the system. Consequently, the introduction of new products or new design techniques into the building process might create conditions in the house that did not previously exist. These different conditions should be contemplated and addressed during construction and/or provided for in the operation of the house by the homeowner. Homes today are certainly more complex than in the past, so much so that there are now recognized professionals in the field of building science. We are constantly striving to learn more about building science.

Interestingly, many of the culprits identified as causes for the increase in mold in newer homes – dry wall, carpeting and air conditioners, to name a few – have been used in home construction for many years. (For example, dry wall has been in use since the 1950's.) Yet, the rise in lawsuits and media coverage has only occurred in the past few years. Nonetheless, NAHB encourages efforts to find ways to help prevent or minimize the conditions that lead to mold growth and we support further research into construction practices, building materials, building design, and occupant practices to identify factors associated with mold growth within indoor environments.

NAHB is cognizant of the health issues associated with mold in indoor environments and takes them very seriously. Existing medical research recognizes that for many individuals mold exposure might exacerbate existing allergies, however, for

most of us, mold is not harmful in the levels typically found in indoor environments. Because exposure depends upon the type of mold, the amount of mold in the environment and the individual's personal susceptibility to mold, no "safe" or "unsafe" permissible exposure levels exist.

Unfortunately, the lack of scientific conclusions has not stopped the litigation and the insurance claims. Rather, some have tried to use the dearth of science to take advantage of the issue, like those who use the term "toxic mold" to refer to molds generally. The obvious implication of the term "toxic mold" is clear - these molds are poisonous and very dangerous to human health. Those who use the term would have you believe that your health is in jeopardy if these molds are found in your home.

While some molds are capable of releasing potentially toxic substances (mycotoxins), whether or not the particular type of mold found in the home will release the mycotoxin in a specific home or building is unclear. The mere presence of mycotoxins in a home does not constitute exposure to the mycotoxins and the mere exposure to these mycotoxins is not necessarily harmful. No human study has been able to unequivocally document a connection between inhalation of mycotoxins and disease.

The health effects associated with mold are at the center of the mold debate and present a serious issue that merits further research. NAHB supports research on the potential health effects of mold exposure in indoor environments that will lead to scientifically sound and reliable data.

NAHB's Efforts

NAHB, at the request of its members, has moved aggressively to educate its membership on this issue and to provide resources for homeowners, tenants and potential homebuyers. NAHB believes that there are many common sense approaches that will aid our industry and consumers in the effort to control indoor mold growth.

Through written materials, educational programs and seminars, NAHB has created an educational forum for its members to learn about the causes of indoor mold growth, the myths and realities associated with mold and the best methods of prevention. NAHB's message to its membership has been threefold: not every case involving mold is cause for panic or alarm; mold claims can become more serious if ignored or improperly handled; and proactive responses can aid in the successful handling and resolution of mold claims.

To address the need for education we have produced a "Builders Guide to Handling Mold Claims and Litigation" and " A Multifamily Guide to Handling Mold Claims and Litigation." These free guides describe methods for limiting mold claims, investigating claims and retaining remediation experts, as well as lawsuit defenses and what to expect from insurance carriers. To date we have distributed over 14,000 copies to our members. These Guides and other NAHB resources are available to NAHB members on NAHB's mold web page where our members can find the latest information

on insurance, legislative and regulatory activities, and science and health issues associated with mold exposure.

Additionally, NAHB held a mold program for a standing-room only crowd at the 2002 International Builders Show in Atlanta, Georgia. Further, NAHB staff has joined with staff from the NAHB Research Center to conduct nationwide mold seminars for our state and local homebuilder associations and other industry groups.

The Research Center, founded in 1964, is a separately incorporated, wholly owned subsidiary of NAHB. The Research Center is one of the preeminent labs in the country devoted to research and analysis on the entire building process. The Research Center has extensive knowledge about building envelope and moisture intrusion issues, which they are applying to the mold issue. Last month the Research Center issued a paper that discusses what builders can do to help their buyers understand mold issues and how to deal with potential problems during the construction process. It is available at nahbrc.org.

NAHB has also developed educational materials for homeowners, tenants and potential homebuyers – who play a vital role in controlling moisture in the home thereby minimizing mold growth in the home. NAHB has developed a bilingual website at www.moldtips.com that provides consumers with information to help them understand what mold is, how it can grow in their home, the routine maintenance procedures they can follow to prevent mold problems, and methods of removing mold already in their home. In addition, this information will be included in a bilingual brochure that builders can provide to their customers.

Impacts on the Home Building Industry

By all measures, the housing industry, which accounts for fourteen percent of the nation's Gross Domestic Product, has been a bellwether during the recent difficult economic times and, fortunately, to date, the mold problem has not hindered the industry's ability to continue producing safe, affordable housing for millions of Americans. The construction component (residential fixed investment) has outperformed the overall economy in four of the last five calendar quarters. In recent economic data for the first quarter of 2002, housing grew 14.6% while the economy grew 6.1%. Over the past year, low interest rates and strong underlying demographic demand has kept housing strong while the rest of the economy has struggled to regain its footing.

The construction of 1,000 single family homes generates 2,448 jobs in construction and construction-related industries, approximately $79.4 million in wages and more than $42.5 million in federal state and local revenues. The construction of 1,000 multifamily homes generates 1,030 jobs in construction and related industries, approximately $33.5 million in wages, and more than $17.8 million in federal, state and local revenues and fees. NAHB members will construct approximately eighty percent of the almost 1.6 million new housing units projected for 2002.

Unfortunately, the recent attention to indoor mold has the potential to negatively impact the home building industry and threatens its place as a leading economic component. Builders, trade contractors, and property owners and managers are being sued for property damage and personal injuries by people concerned that mold has caused personal property damage and mold-related illness. Insurance companies, as a means of protecting themselves from the recent increase in mold claims, are writing mold exclusions into their builder liability insurance policies, which compounds the liability insurance crisis currently facing builders. Due to adverse insurance market conditions, liability coverage for builders and their trades is less available, more expensive and more restrictive in terms of the coverage.

An NAHB survey in early 2002 highlighted some of the insurance difficulties facing builders. More than eighty percent of the builders surveyed reported higher costs over the previous year, while nearly a third (thirty-one percent) reported significantly higher costs and reduced coverage. Further, the NAHB survey showed that exclusions were becoming commonplace. Seventy-five percent of the builders surveyed were subject to exclusions on their commercial general liability policies. Forty-one percent of that percentage faced mold exclusions.

Homebuilding is a very competitive industry, with many companies, most of them small. Because there is no room for builders to absorb the increased cost of mold-related insurance, costs will hit every firm in the industry, and the builders will have to recover that cost from the consumer.

Ultimately, the increased costs of insurance, potential litigation, and potentially burdensome regulations will adversely impact housing affordability. Passing the cost to homebuyers and renters makes housing less affordable. Simply, fewer homes will be bought and fewer homes will be built. To secure costly insurance coverage for mold will have the effect of cooling down the market for housing at a time when its economic contribution is most vital.

Another potential adverse impact on the building industry are calls for new regulations, new building code requirements and construction practices, and burdensome inspection and disclosure requirements. In our effort to provide affordable housing for all Americans, NAHB has always sought to limit the economic impact of regulations on the cost of housing. According to the U.S. Census Bureau, a $1000 increase in the cost of a home effectively prices 300,000 families out of the marketplace. Right now, research and information, not legislation and regulation, is what is needed most to address the mold issue.

For the previously mentioned reasons, NAHB is concerned that there has been a leap to judgment concerning some of the causes of the mold problems in homes – namely building design, building practices, and building materials. We are equally concerned, given the absence of scientific data, about recent calls for changes in current building codes and standards. NAHB will continue to support additional research into construction practices, building materials, building design, and occupant practices to

identify factors associated with mold growth within indoor environments. We are opposed, however, to legislative and/or regulatory action concerning mold that is not based upon scientifically sound and reliable data, that does not include regional flexibility, and that imposes requirements that are not cost-effective, technically achievable, and attainable.

Madam Chairwomen and members of the subcommittees, thank you for the opportunity to share the views of the National Association of Home Builders on this important issue. I look forward to any questions you or the members of the committee may have for me.